

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #7	CCRB Case #: 201603976	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/01/2016 11:35 PM, Saturday, 05/07/2016	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 10/1/2017	EO SOL 10/1/2017	
Date/Time CV Reported Sat, 05/07/2016 11:13 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 05/07/2016 11:13 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM James Seder	06788	947479	075 PCT
2. POM Matthew Solomito	25805	951284	075 PCT
3. POM Christopher Walsh	23571	951413	075 PCT
4. SGT Henry Daverin	03631	945645	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tony Cuoco	17359	950261	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Henry Daverin	Abuse: On April 1, 2016, at Linden Boulevard and Holly Street, in Brooklyn, Sergeant Henry Daverin refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM James Seder	Abuse: On April 1, 2016, at the 75th Precinct stationhouse in Brooklyn, Police Officer James Seder searched § 87(2)(b) [REDACTED]'s cell phone.	[REDACTED]
C.SGT Henry Daverin	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Henry Daverin stopped individuals.	[REDACTED]
D.POM Christopher Walsh	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Christopher Walsh searched an individual.	[REDACTED]
E.POM Matthew Solomito	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Matthew Solomito searched an individual.	[REDACTED]
F.SGT Henry Daverin	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Henry Daverin stopped § 87(2)(b) [REDACTED]	[REDACTED]
G.SGT Henry Daverin	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Henry Daverin frisked § 87(2)(b) [REDACTED]	[REDACTED]
H.SGT Henry Daverin	Abuse: On May 7, 2016, in front of § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Henry Daverin searched § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.SGT Henry Daverin	Abuse: On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin refused to provide his name and shield number to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 1, 2016, at approximately 11:35 p.m., near the intersection of Linden Boulevard and Holly Street, in Brooklyn, § 87(2)(b) was speaking with his girlfriend on the phone when he noticed that Sgt. Henry Daverin, PO James Seder, and PO Tony Cuoco from the 75th Precinct Anti-Crime Unit exited an unmarked vehicle. Sgt. Daverin, PO Seder and PO Cuoco began speaking to an individual, or a group of individuals, about an investigation. § 87(2)(b) approached the officers and asked, “What is going on?” Sgt. Daverin asked § 87(2)(b) to walk away, which he did. As § 87(2)(b) walked away, he requested Sgt. Daverin’s shield number. Sgt. Daverin allegedly did not provide the requested information (**Allegation A**). § 87(2)(b) was then arrested for obstruction of governmental administration (OGA) and transported to the 75th Precinct stationhouse. While at the stationhouse, PO Seder requested the passcode to § 87(2)(b)’s cell phone, which § 87(2)(b) then provided to him. § 87(2)(b) watched as PO Seder allegedly searched § 87(2)(b)’s cell phone (**Allegation B**). § 87(2)(b) was eventually released from the stationhouse with a summons for disorderly conduct.

On May 7, 2016, at approximately 9:27 p.m., while § 87(2)(b) sat in front of his home at § 87(2)(b) in Brooklyn, he witnessed Sgt. Daverin, PO Matthew Solomito and PO Christopher Walsh from the 75th Precinct Anti-Crime Unit exit an unmarked vehicle. Sgt. Daverin exited the vehicle and approached two individuals (**Allegation C**). PO Solomito and PO Walsh then allegedly searched the individuals (**Allegation D and Allegation E**). While the officers searched the individuals, Sgt. Daverin stopped § 87(2)(b) (**Allegation F**). Sgt. Daverin then allegedly frisked and searched § 87(2)(b) (**Allegation G and Allegation H**). After the search, § 87(2)(b) asked Sgt. Daverin for his name and shield number and he allegedly did not provide the requested information (**Allegation I**). There were no summonses written or arrests made as a result of this incident.

There is no video evidence for this case. The case surpassed the 90-day benchmark. A delay in the investigation occurred awaiting police documentation to confirm the officers involved.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined mediation.
- As of June 24, 2016, § 87(2)(b) has not filed a Notice of Claim (Board Review 1).
- According to the Office of Court Administration (OCA) records, there are no past criminal convictions for § 87(2)(b) (Board Review 2).

Civilian and Officer Histories

- § 87(2)(b) filed one additional complaint, CCRB case number 201604407 in which the victims were unidentified regarding a stop and a frisk allegation (Board Review 3).
- Sgt. Daverin has been a member of the service for eight years and has been the subject of 37 allegations stemming from 17 cases. In case number 201502623, the Board substantiated refusal to provide name and shield number, a frisk, and vehicle search allegations. The Board recommended command discipline, and to date, the NYPD has not instituted any disciplinary action. § 87(2)(g). Sgt. Daverin has three open cases that are pending the Board’s recommendation. § 87(2)(g).
- PO Seder has been a member of the service for eight years and has been the subject of nine allegations stemming from four cases, none of which have been substantiated or § 87(2)(g).

- § 87(2)(g) Upon the closure of this report, PO Seder has one open case pending the Board's recommendation.
- PO Walsh has been a member of the service for five years and currently has three additional open cases in which he is the subject of ten allegations, § 87(2)(g)
 - PO Solomito has been a member of the service for five years and has been the subject of two allegations stemming from two cases. One of the cases is currently open pending the Board's recommendation and the other allegation was unsubstantiated and § 87(2)(g)

Potential Issues

§ 87(2)(b) stated that he did not know the two male individuals who the officers stopped and searched in front of § 87(2)(b) on May 7, 2016. § 87(2)(b) was only able to provide that the two men were possibly Hispanic, one of whom lived in an apartment next door at § 87(2)(b). A Clear and Lexis Nexis search conducted for the address yielded over 90 names associated with the address at § 87(2)(b). The numbers provided for § 87(2)(b) were all wrong numbers. Three letters were sent to § 87(2)(b) and they were not returned by the United States Postal Service. On May 11, 2016 and June 7, 2016, field work was conducted but was unsuccessful in locating any witnesses to the incident or obtaining any video footage of the incident. On June 7, 2016, a free content letter was also posted at the location. However, to date, no contact has been established with the victims or with any additional witnesses to the incident (Board Review 36). According to the Event Summary for May 7, 2016, there were no events generated at the time of the incident or within close proximity to the incident location (Board Review 4). A search of BADS did not yield any arrests made by the 75th Precinct Anti-Crime team, or any arrests that happened near the time and place of the incident. Warrant checks conducted for the date, time and location were also negative (Board Review 5, 8 and 37). The stop, question and frisk index only yielded one report, which was eight blocks away from the location of the incident and it did not correspond to the details of this case (Board Review 6 and 11).

Based on the lack of documentation, that field work yielded no leads regarding the identity of the individuals involved, and attempts to contact the individuals were unsuccessful, **Allegations C, D and E** have been pled against "an individual" and "individuals" respectively.

Findings and Recommendations

Explanation of Subject Officer Identification

It is undisputed, based on § 87(2)(b)'s statement and Sgt. Daverin's acknowledgement, that Sgt. Daverin interacted with § 87(2)(b) on both April 1, 2016 and May 7, 2016. Therefore, **Allegations A, C, F, G, H and I** have been pled against Sgt. Daverin. PO Seder, who was working with Sgt. Daverin on April 1, 2016, also acknowledged his interaction with § 87(2)(b). Both PO Solomito and PO Walsh were identified as working with Sgt. Daverin on May 7, 2016, via police documentation. § 87(2)(b) stated that the officers working with Sgt. Daverin searched the two individuals, which he accurately described as white males who were working with Sgt. Daverin. Therefore, **Allegation E** and **Allegation F** have been pled against each officer accordingly.

Allegation A- Abuse of Authority- On April 1, 2016, at Linden Boulevard and Holly Street, in Brooklyn, Sergeant Henry Daverin refused to provide his shield number to § 87(2)(b)

Allegation B- Abuse of Authority- On April 1, 2016, at the 75th Precinct stationhouse in Brooklyn, Police Officer James Seder searched § 87(2)(b)'s cell phone.

§ 87(2)(b) stated that he approached Sgt. Daverin, PO Seder, and PO Cuoco, who had other individuals stopped, and he asked, "What's going on?" Sgt. Daverin replied by telling § 87(2)(b) to walk away. § 87(2)(b) walked approximately 15 feet away, then turned back and said to Sgt. Daverin, "Hey buddy, can I get your badge number?" PO Seder replied, "Hey, didn't he tell you to walk away?" Sgt. Daverin and PO Seder then approached § 87(2)(b) and he was subsequently arrested. Sgt. Daverin never provided his shield number to § 87(2)(b). While at the stationhouse, PO Seder asked § 87(2)(b) for the passcode to his phone, which § 87(2)(b) provided. § 87(2)(b) watched as PO Seder looked through § 87(2)(b)'s phone (Board Review 10).

Sgt. Daverin stated that § 87(2)(b) may have requested his name or shield number but he did not recall if he did. Sgt. Daverin did not recall if another officer was asked for their name and shield number and if they ever provided the requested information. Sgt. Daverin did not know what happened to § 87(2)(b)'s cell phone after he was placed in handcuffs but he denied that he was ever in possession of the cell phone (Board Review 13 and 16).

PO Seder denied that § 87(2)(b) asked for any officer's name or shield number and denied hearing Sgt. Daverin refuse to provide it. PO Seder acknowledged that he was the only officer who was in possession of § 87(2)(b)'s cell phone during his arrest and he placed the cell phone in a property voucher bag. PO Seder denied that he asked for § 87(2)(b)'s passcode or that he searched § 87(2)(b)'s cell phone (Board Review 11 and 12).

PO Cuoco stated that § 87(2)(b) asked him for his name and shield number and he provided it, but did not recall if § 87(2)(b) asked anyone else, including Sgt. Daverin, for their name or shield number. PO Cuoco did not recall how many times § 87(2)(b) requested his name and shield number or if he requested it more than once. PO Cuoco did not recall if he was ever in possession of § 87(2)(b)'s cell phone but denied that he asked for his passcode, searched his cell phone and denied that he observed PO Seder do so (Board Review 17 and 19).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation C- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin stopped individuals.

Allegation D- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Police Officer Christopher Walsh searched an individual.

Allegation E- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Police Officer Matthew Solomito searched an individual.

§ 87(2)(b) acknowledged that when he exited his apartment building he was listening to music on a set of headphones. At this time, § 87(2)(b) noticed two individuals who were sitting in front of the apartment building next door. § 87(2)(b) did not know how long the individuals were at the

location, where they had been prior to arriving at the location, or what statements they were making, if any. Sgt. Daverin, PO Walsh, and PO Solomito arrived, approached the two individuals and began speaking to them. Although § 87(2)(b) lowered his music, he could not hear the conversation between the officers and the individuals. PO Solomito and PO Walsh then “checked the males” by going inside their pockets and removing items from their pockets (Board Review 10).

Sgt. Daverin stated that he recalled doing an investigation at the location which involved him speaking to a group of individuals. However, Sgt. Daverin did not recall the number of individuals he spoke to, what the content of the conversation was or what he was investigating. Sgt. Daverin also did not recall what the individuals were doing prior to when he approached them. Sgt. Daverin did not recall if there was any drug related activity in the area at the time and did not recall if the individuals were free to leave (Board Review 13 and 16). PO Solomito and PO Walsh both denied that they took part in a stop or search of any individuals at the location and both denied recalling the incident. Both officers did not recall whether Sgt. Daverin requested that they stop any individuals at the location. There were no stop, question, and frisk reports prepared. Sgt. Daverin, PO Solomito and PO Walsh also did not have any memo book entries corresponding to this incident (Board 15, 18, 20 and 21).

§ 87(2)(b), § 87(2)(g)

Allegation F- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin stopped § 87(2)(b)

Allegation G- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin frisked § 87(2)(b)

Allegation H- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin searched § 87(2)(b)

Allegation I- Abuse of Authority- On May 7, 2016, in front of § 87(2)(b) in Brooklyn, Sergeant Henry Daverin refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) stated that after PO Walsh and PO Solomito searched the other individuals, Sgt. Daverin gestured to § 87(2)(b) to step off the steps and § 87(2)(b) complied. Sgt. Daverin approached § 87(2)(b) patted down the outside of his clothing, his upper body, down to his legs and his back, and patted down the area under the sweatshirt he was wearing. Sgt. Daverin then went into § 87(2)(b)'s shorts' pockets and sweatshirt pockets but did not remove any of its contents. After Sgt. Daverin searched § 87(2)(b) Sgt. Daverin gestured to § 87(2)(b) to go back to the steps. As § 87(2)(b) walked away, he asked Sgt. Daverin for his name and shield number. Sgt. Daverin ignored § 87(2)(b) and did not provide the requested information (Board Review 10).

As noted above, PO Walsh and PO Solomito did not recall the incident. However, both denied that they saw Sgt. Daverin go into § 87(2)(b)'s pockets and did not recall a frisk happening. They did not hear § 87(2)(b) request Sgt. Daverin's name and shield number (Board Review 15, 18, 20 and 21).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

_____.

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad: 07

Investigator:	_____	<u>Daniel Cooper</u>	_____
	Signature	Print	Date
Squad Leader:	_____	<u>Diana Murray</u>	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date